

BERND LÜHMANN ET AL.
USSN 10/615,206
REPLY TO THE OFFICE ACTION DATED JUNE 30, 2004
AMENDMENT OF DECEMBER 30, 2004

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

REMARKS

Applicants respectfully request reconsideration and allowance of this application in view of the amendments above and the following comments.

Amendments have been made to the claims as indicated above. What is shown is a mark-up showing the changes that have been made to the claims using strikethrough and underlining. Applicants believe that all of the changes are purely editorial and that no new matter has been introduced.

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Claims 8-10 were rejected under 35 USC § 112, second paragraph, as being indefinite. In response, Applicants have amended claim 8 to correct the spelling of "ratio." Applicants have also amended claim 10 to correct the typographical error made in duplicating claim 9. Claim 10 as amended is supported by original claim 10. Again, no new matter has been added.

For the record, Applicants emphasize that although the claims were amended to overcome this rejection, and, therefore, might be argued to have been amended for a reason substantially related to patentability, a fair reading of the amended claims will reveal that the departures from the previous claims were for clarification purposes only, and that Applicants did not narrow the claims in any material respect. Therefore, Applicants submit that the amended claims are entitled to the full range of equivalents.

Claims 1-4, 7 and 9-12 were rejected under 35 USC § 102(e) as being anticipated by Kreckel, U.S. Patent No. 5,516,581 or U.S. Patent No. 5,672,402. In response, Applicants respectfully request that the Examiner reconsider and withdraw this rejection. It is not explained how Kreckel's hook (52) satisfies the claim requirement of "fastening means." In the absence of such explanation, the Examiner has not made out a *prima facie* case of anticipation.

Claims 1-12 were rejected under 35 USC § 103(a) as being obvious over Kreckel. The Examiner concedes that Kreckel does not teach the specific numerical limitations in the instant

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claims, but finds that such would have been obvious. In response, Applicants point out that the defect noted above with respect to the anticipation rejection applies with equal force here.

Again, no explanation is given how Kreckel's hook (52) satisfies the claim requirement of "fastening means." In the absence of such explanation, the Examiner also has not made out a *prima facie* case of obviousness. Moreover, Applicants point out that the instances in which an examiner can take official notice of differences between the prior art and the claims has recently been clarified by the Court of Appeals for the Federal Circuit. Such instances are rare, and generally obviousness will require the citation of a secondary reference teaching the difference. No such secondary reference is provided here.

In view of the foregoing, Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections. An early notice that these rejections have all been reconsidered and withdrawn is earnestly solicited.

Applicants believe that the foregoing constitutes a bona fide response to all outstanding objections and rejections.

Applicants also believe that this application is in condition for immediate allowance. However, should any issue(s) of a minor nature remain, the Examiner is respectfully requested to telephone the undersigned at telephone number (212) 808-0700 so that the issue(s) might be

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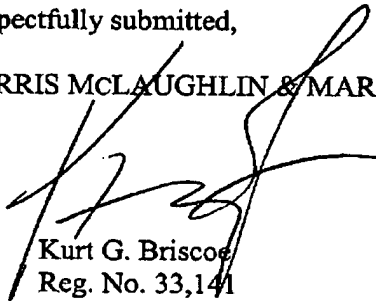
promptly resolved.

Early and favorable action is earnestly solicited.

Respectfully submitted,

NORRIS McLAUGHLIN & MARCUS, P.A.

By


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Reg. No. 33,141

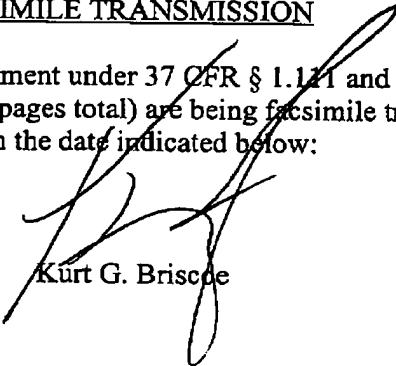
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Amendment under 37 CFR § 1.121 and the accompanying Petition for Extension of Time (9 pages total) are being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: December 30, 2004

By:


Kurt G. Briscoe